

Notice of Allowability

Application No.

10/020,319

Examiner

Fadi H. Dahbour

Applicant(s)

DOTY ET AL.

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 05/10/2004.
2. ☒ The allowed claim(s) is/are 5-10,12-17,24 and 26-28.
3. ☒ The drawings filed on 11 December 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Fadi H. Dahbour
Examiner
Art Unit 3743

DETAILED ACTION

Allowable Subject Matter

1. The Examiner acknowledges Applicant's submission of the amendment filed on 05/10/2004.

2. The allowed claims are 5-10, 12-17, 24, 26-28.

3. The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach or fairly suggest the recitations of the specific features of the orthopedic brace, of claims 5, 12, 14, 16, 24 and 26, including especially the following: The primary reason for the allowance of independent claim 5, is the inclusion of the plurality of engagement surfaces being provided along a length of the telescoping upright, and the outer portion including an engagement member selectively engageable with at least one of the engagement surfaces to lock the telescoping portion in place in the channel, claimed in combination with the brace's first support, second support, and hinge assembly.

The primary reason for the allowance of independent claim 12, is the inclusion of the cross-section of the first and second supports including a first region having a first radius of curvature and a second region having a second radius of curvature longer than the first radius of curvature, claimed in combination with the brace's first support, second support, hinge assembly, channel, and telescoping upright.

The primary reason for the allowance of independent claim 14, is the inclusion of the first and second supports comprising at least a first generally D-shaped ring on a first side and a second generally D-shaped ring on a second side opposite the first side, claimed in combination with the brace's hinge assembly, channel, and telescoping upright.

Art Unit: 3743

The primary reason for the allowance of independent claim 16, is the inclusion of the upright comprising at least a first generally D-shaped ring on a first side and a second generally D-shaped ring on a second side opposite the first side, claimed in combination with the brace's first support, second support, hinge assembly, and channel.

The primary reason for the allowance of independent claim 24, is the inclusion of the hinge plate being insert molded within the first portion, claimed in combination with the brace's first support, second support, thermoplastic composite, and second portion constructed of metal.

The primary reason for the allowance of independent claim 26, is the inclusion of each sliding upright including a plurality of through holes, and a floor of each channel including a spring-biased button engageable with each hole such that the button positively locks a position of the upright with respect to the channel and the upright is slidable within the channel when the button is depressed, claimed in combination with the brace's first support, second support, and hinge assembly.

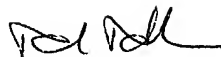
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 703-306-5479. The examiner can normally be reached on M-F, 9am-5:30pm est.

Art Unit: 3743

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Fadi H. Dahbour
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Art Unit 3743